

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13065, of Wisconsin Avenue Baptist Church, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to use the basement and first floor of the subject premises as a child care center for fifty-seven children, one director, seven full-time and seven part-time teaching staff in an R-1-B District at the premises 3920 Alton Place, N.W., (Square 1779, Lot 824).

HEARING DATES: October 17, and November 28, 1979
DECISION DATE: December 5, 1979

FINDINGS OF FACT:

1. At the public hearing of October 17, 1979, the Board for good cause shown and with the opposition's consent, waived the requirements of Rule 3.33 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment which requires that the subject property be posted with notice of the public hearing at least ten days in advance of the hearing. The subject property was posted for eight days.
2. At the public hearing of November 28, 1979, the Board granted the applicant permission to amend the application to request a variance from Paragraph 3101.41(c) of the Zoning Regulations which requires that the enrollment at the subject school be limited primarily to children residing in the neighborhood.
3. The subject property is located on Tenley Circle at the intersection of Nebraska Avenue and Alton Place, N.W., and is known as 3920 Alton Place, N.W. It is in an R-1-B District.
4. The subject lot 824 is approximately 35,280 square feet in area. Approximately three quarters of the property is occupied by the church building and parking lot. The remainder is devoted to play space and lawns.
5. The land east of Wisconsin Avenue and Nebraska Avenue is devoted primarily to residential use with single family detached dwellings, the predominant building type. The Wisconsin Avenue frontages in the vicinity of the site are devoted to retail, office and service establishments. Restaurants, theaters, gas stations, and a variety of other commercial uses are located nearby. There will also be a Metro station at Tenley Circle which is scheduled to open in the near future.

Zoning along Wisconsin Avenue in the vicinity of the Church is C-3-A with the exception of most property fronting on Tenley Circle property which is zoned R-1-B. East and west of Wisconsin Avenue R-1-B is the predominant zoning in the area with R-2 the second most prevalent district.

6. The applicant proposes to establish a day care center for fifty-seven children who will range from two months to five years in age.

7. A total of seven full time teachers and seven part time teachers, a part time custodian, a director, and student interns will comprise the staff for the school.

8. Space in the basement and first floor of the church will be used for the center. Kitchen facilities will be used for the preparation of snacks.

9. A fenced-in play area totalling approximately 4,000 square feet is provided outdoors and there is approximately 4,800 square feet of lawn area. Under the Zoning Regulations fifty-seven children would require a minimum of 5,700 square feet of play area.

10. The center will operate Mondays through Fridays from 7:00 a.m. to 7:30 p.m.

11. Based on a staff of fifteen, ten parking spaces would be required. The church parking lot accommodates approximately twenty-six vehicles and is not used on a regular basis by the Church during the week.

12. No articles of commerce will be offered for sale on the premises.

13. The applicant testified that the child care center would be operated as a non-profit subsidiary of the National Academy of Television Arts and Sciences. Child care services are to be made available to children of the neighborhood, the applicant Wisconsin Avenue Baptist Church and employees of certain participating broadcasting stations, (WJLA, WDVM, WTTG, WRC/NBC and WMAL Radio).

The applicant further testified that it would require that at least ten of the children who were enrolled in the school to reside in the neighborhood of the subject property.

14. The Office of Planning and Development, by report dated October 11, 1979 recommended that the application be approved. The Board notes that the recommendation predated the amendment of the application. The OPD report stated that in its opinion, the proposed day care center meets the requirements of the Zoning Regulations. No articles of commerce will be offered for sale on the premises. The church is located on a large lot of 35,280 square feet and only the rear yards of a row of dwellings facing 39th Street adjoin the church property. The church's parking lot is located to the rear of these dwellings. Access to the church parking lot is from Alton Place, N.W. which eliminates potential traffic conflicts at Wisconsin and Nebraska Avenues. The children will either live in the neighborhood or will be the children of people who work nearby. The church has outdoor play and lawn areas which total approximately 8,800 square feet. The church parking lot has room for approximately twenty-six cars. The day care center based on a staff of fifteen would require ten parking spaces. The OPD believes that ten spaces would be adequate to supply the center. Except as to the requirement that the enrollment at the subject school be limited primarily to children residing in the neighborhood the Board concurs that the applicant is complying with Paragraph 3101.41 of the Zoning Regulations.

15. Advisory Neighborhood Commission - 3F, by testimony of November 27, 1979, recommended that the application be approved. A representative of single member district ANC-3E03 testified at the public hearing of November 28, 1979 that it was in favor of the application since there was a scarcity of day care facilities in the neighborhood and that no adverse comments had been received from the neighborhood residents.

16. There were letters on file and testimony at the public hearing in favor of the application and some in opposition. At the public hearing an immediate neighbor to the subject property appeared in opposition. The opposition was based on a concern of increased traffic problems and that the proposed use was not serving neighborhood children. As to the opposition, the Board finds that the subject site provides more than ample parking spaces and that increased traffic will not be a problem. As to the other concern of the opposition, the Board finds that with the conditions imposed by it is hereinafter listed, the concern will be alleviated. The grant will be limited to a certain number of years and will be subject to the Board's review.

CONCLUSIONS OF LAW AND OPINION:

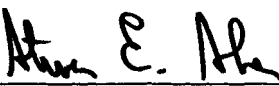
Based on the record, the Board concludes, as distinguished in finding No. 14, that the applicant has substantially complied with the requirements of Paragraph 3101.41 of the Zoning Regulations and that the spacial exception can be granted. As to the variance from Sub-paragraph 3101.41(c) the Board concludes that with the conditions hereby imposed, the applicant has met the spirit and intent of the regulations and that no variance from that Sub-paragraph is required. The Board further concludes that the granting of the application will not affect adversely the use of neighboring properties. Accordingly, it is ORDERED that the application, as amended, is GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be limited to a school to be operated by the National Academy of Television Arts and Sciences.
2. There shall be a maximum of fifty-seven students enrolled at the school, with one Director, seven full time and seven part time teachers.
3. The operators of the school shall make every effort to see that a majority of the students enrolled in the school resides in the neighborhood, provided that a minimum of ten students shall reside in the neighborhood. All students not residing in the neighborhood shall be children of parents who are members of the National Academy of Television Arts and Sciences.
4. The hours of operation shall not exceed from 7 a.m. to 7:30 p.m. Monday through Friday.
5. Approval shall be for a period of two years.

VOTE: 5-0 (William F. McIntosh, Walter B. Lewis, Connie Fortune
Charles R. Norris and Leonard L. McCants to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 26 JAN 1980

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UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATION "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT".

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OR OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.